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**Luis Cannon, a sole proprietorship d/b/a Nationwide Building Services and International Union, United Plant Guard Workers of America (UPGWA). Case 28-CA-12331**

August 16, 1995

# DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS COHEN  
AND TRUESDALE

On October 19, 1994, the National Labor Relations Board issued an unpublished Order adopting, in the absence of exceptions, the Decision and Order of the administrative law judge, ordering Luis Cannon, a sole proprietorship d/b/a Nationwide Building Services, inter alia, to make whole Michael Kroft for his loss of earnings resulting from the Respondent's unfair labor practices in violation of Section 8(a)(1) and (3) of the National Labor Relations Act. On March 24, 1995, the United States Court of Appeals for the Ninth Circuit issued its judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due, on June 2, 1995, the Regional Director for Region 28 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

On July 24, 1995, the General Counsel filed with the Board a Motion to Transfer and Continue Matter Before Board and for Summary Judgment, with exhibits attached. On July 26, 1995, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

## Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer

within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due Michael Kroft is as stated in the compliance specification and we will order payment by the Respondent of that amount to the discriminatee, plus interest accrued on that amount to the date of payment.

## ORDER

The National Labor Relations Board orders that the Respondent, Luis Cannon, a sole proprietorship d/b/a Nationwide Building Services, Phoenix, Arizona, its officers, agents, successors, and assigns, shall make whole Michael Kroft by paying him the amount below, plus interest and minus tax withholdings required by Federal and state laws:

Total due, before interest: \$36,424.

Dated, Washington, D.C. August 16, 1995

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William B. Gould IV, Chairman

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Charles I. Cohen, Member

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John C. Truesdale, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD